

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8188 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
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G S R T C

Versus

RAMNIKLAL P CHAUHAN

Appearance:

1. Special Civil Application No. 8188 of 1991
MR SN SHELAT for Petitioner No. 1
MR MD RANA for Respondent No. 1
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CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 22/04/2002

ORAL JUDGEMENT

Heard Mr.H.C.Rawal, learned advocate appearing on behalf of the petitioner and Mr.M.D.Rana, learned advocate on behalf of the respondent - workman.

#. In the present petition, the petitioner Corporation

has challenged the award passed by the Labour Court, Bhavnagar in Reference No.570 / 1988 dated 9th March, 1991, wherein the labour court has set aside the dismissal order and granted reinstatement with continuity of service without backwages of interim period.

#. At the time of issuing of Rule on 8th April, 1992, this Court has not granted any Stay against reinstatement, meaning thereby, the respondent workman must have been reinstated by now in service by the Corporation since 1992.

#. Learned advocate Mr.H.C.Rawal on behalf of the petitioner has submitted that the labour court has committed gross error in not believing the evidence of the reporter as legal evidence and though the past record was produced by the Corporation vide Exh.19, same has been ignored by the Labour Court. Mr.Rawal, learned advocate has submitted that past record is also produced by the Corporation before this Court, wherefrom it reflects that in all 30 defaults have been committed by the respondent workman and some of them are of similar nature. Therefore, Mr.Rawal submits that the past record of the workman concerned is bad and once this Court has not granted stay against reinstatement, the workman must have been reinstated and therefore, some punishment may be awarded to the respondent for the misconduct committed by the respondent workman.

#. Learned advocate Mr.M.D.Rana on behalf of the respondent workman has submitted that the labour court has considered the evidence which was on record and passed appropriate orders granting reinstatement with continuity of service without backwages of the interim period. However, Mr.Rana learned advocate respondent workman submits that if at all this Court considers that some punishment is necessary in the facts and circumstances of the case, this Court may imposed some minor penalty in exercise of inherent powers of this Court.

#. I have considered submissions of the learned advocates for the parties. Considering the reasons assigned by the labour court in para-8 of the award, which reflects that the labour court after considering the merits of the matter observed that the respondent workman had recovered the fare of Rs.0.75 ps. from four passengers and not issued tickets upto checking point. Statement of passengers were recorded at the relevant time by checking staff and thereafter, chargesheet was served and the respondent workman was dismissed from

service. The labour court has come to the conclusion that once the charge has been levelled against the respondent workman about dishonesty and misappropriation, same is required to be proved by the reporter beyond reasonable doubt. The labour court has also observed that there must be some independent and cogent evidence to prove the misconduct against the respondent workman. Except reporter, no other person has been examined in the departmental inquiry and therefore, the labour court has come to the conclusion that out of 45 passengers, the respondent workman issued 41 tickets and only four passengers remained without issuing tickets but at that time, road booking was continued and one month salary was not paid. Thus, considering all these aspects of the matter, the Labour Court has granted reinstatement with continuity of service without backwages.

#. Therefore, considering all these aspects of the matter, according to my opinion, the labour court has totally ignored the past record which was produced by the Corporation vide Exh.19, wherein it reflects that 30 defaults seem to have committed by the workman. Therefore, this Court considering two aspects of the matter, firstly that the respondent workman has recovered fare from four passengers and not issuing the tickets and secondly looking to the past record of committing 30 defaults, according to my opinion, if punishment of stoppage of two increments with cumulative effect is awarded to the respondent workman, will meet the ends of justice between the parties. The impugned award passed by the labour court in Reference No.570 / 1988 dated 9th March, 1991 needs to be modified accordingly.

#. In the result, present petition is partly allowed. The Award impugned in this petition passed by the Labour Court, Bhavnagar in Reference No.570 / 1988 dated 9th March, 1991 is modified to the effect that the direction of reinstatement with continuity of service without backwages is not disturbed by this Court and same will remain intact. Over and above, the respondent workman has to suffer penalty of stoppage of two increments with permanent effect. Rule is made absolutely accordingly with no order as to costs.

Date : 22-4-2002 [H.K.Rathod, J.]

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